



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 5, 1999

VIA FACSIMILE
AND FIRST CLASS MAIL

Bobby Burchfield, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: MUR 4728
Campaign for Working Families
and Peter Dickinson, as Treasurer

Dear Mr. Burchfield:

On August 2, 1999, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 434(b), 434(c)(2), and 441d(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Bobby Burchfield, Esq.
MIJR 4728
Page 2

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. Also, CWF must amend certain expenditure reports, as called for in the agreement, within 30 days. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Seth H. Row", with a long horizontal flourish extending to the right.

Seth H. Row
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Campaign for Working)
Families and Peter Dickinson, as Treasurer) MUR: 4728
)

CONCILIATION AGREEMENT

This matter was generated by a complaint filed with the Federal Election Commission ("The Commission") by Kevin Artl. See 2 U.S.C. § 437g(a)(1). This matter was also initiated by the Commission pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). The Commission found reason to believe that Campaign for Working Families and Francis P. Cannon, as treasurer, violated 2 U.S.C. § 434(c)(2), 2 U.S.C. § 441d, and 2 U.S.C. § 434(b).

NOW, THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Campaign for Working Families ("CWF") is a political committee within the meaning of 2 U.S.C. § 431(4) and is a nonconnected multicandidate political committee.
2. Peter Dickinson is the treasurer of CWF. Francis P. Cannon was the treasurer of CWF until February 12, 1999.
3. Peter Roskam was a candidate in the race for the Republican nomination to the House of Representatives for the 13th District of Illinois in 1998.
4. The election in which Mr. Roskam was a candidate was held on March 17, 1998.
5. Perry Atkinson was a candidate in the race for the Republican nomination to the House of Representatives for the 2d District of Oregon in 1998.
6. The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that a political committee list, on its regular activity report, all of its disbursements within the period covered by the report. 2 U.S.C. § 434(b).
7. Each committee must report the name and address of each "person who received any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such expenditure was made in support of or in opposition to a candidate, and a notarized certification under penalty of perjury stating that such expenditure was not made in

cooperation, consultation or concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such committee.” 2 U.S.C. § 434(b)(6)(B)(iii).

8. The Act requires that independent expenditures by a political committee aggregating \$1,000 or more, made within twenty days of an election but more than 24 hours before the election, must be reported to the Commission within 24 hours of the expenditure being made. 2 U.S.C. § 434(c)(2).

9. A committee is required to report within 24 hours any expenditure covered by the 24-hour reporting requirements of 2 U.S.C. § 434(c)(2) and not merely those for which services or materials have been received. See 11 C.F.R. § 104.4(b) (referring to 11 C.F.R. § 104.3(b)(vii)); see also 11 C.F.R. § 100.8(a)(2) (“A written contract, including a media contract... to make an expenditure is an expenditure as of the date such contract, promise, or obligation is made.”). Similarly, a committee is required to report on its regularly filed report any expenditure covered by 2 U.S.C. § 434(b)(6)(B)(iii) and not merely those for which services or materials have been received. Id.

10. The Act requires that whenever a person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits contributions through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any type of general public political advertising, such communication, if not authorized by a candidate or a candidate’s committee, must contain a disclaimer identifying the committee that paid for the advertisement and stating that the advertisement was not authorized by any candidate or candidate’s committee. 2 U.S.C. § 441d(a)(3).

11. On its March 16, 1998 24-Hour Report CWF reported that it made an independent expenditure of \$50,900, on March 2, 1998, for direct mail advocating the election of Peter Roskam. CWF reported this expenditure as having been made to Association Mailing Services of Des Plains, Illinois.

12. CWF reported disbursing \$21,168, total, to Creative Printing of Arlington, Virginia on February 19, 1998, in connection with the direct mailers on behalf of Peter Roskam. (The vendor to which this amount was actually disbursed was Creative Printing of Des Plains, Illinois.) CWF reported this disbursement on its March Monthly Report. It included these disbursements in the \$50,900 it reported making to Association Mailing Services on its March 16, 1998 24-Hour Report.

13. CWF's expenditures in connection with the direct mail on behalf of Peter Roskam made within 20 days but more than 24 hours before March 17, 1998 consisted of \$10,625.70 owed to Creative Printing and \$19,106.30 owed to Association Mailing Services. CWF included these expenditures in the \$50,900 it reported making to Association Mailing Services on its March 16, 1998 24-Hour Report. CWF failed to itemize the \$10,625.70 owed to Creative Printing on the March 16, 1998 24-Hour Report.

14. CWF disbursed \$10,625.70 to Creative Printing on March 25, 1998, and reported this disbursement on Schedule E of its April Monthly Report.

15. CWF contends that it reported a disbursement in some form or fashion on a monthly report which should have been reported as a disbursement to Association Mailing Services in connection with the direct mail on behalf of Mr. Roskam. CWF also contends that it reported a \$7,251.50 disbursement on Schedule B of a monthly report, and that this amount should have been reported as being in connection with the direct

mail on behalf of Mr. Roskam. However, CWF has not identified where any disbursement made in connection with the direct mailers on behalf of Mr. Roskam was reported, other than those reports mentioned in the preceding paragraphs.

16. CWF's two direct mail advertisements in support of Mr. Roskam were mailed on March 2, 1998 and on or about March 9, 1998, respectively, and contained the words "Paid for by the Campaign for Working Families" and immediately afterward "Not affiliated with any candidate or candidate's committee."

17. On its March 16, 1998 24-Hour Report CWF reported expenditures totaling \$18,610.00 for media purchases in connection with radio advertising on behalf of Peter Roskam. CWF reported these expenditures as having been made on March 13, 1998 to two radio stations.

18. CWF made a \$25,002.55 disbursement to Brabendar Cox, a vendor, for media purchases in connection with independent expenditures for radio advertisements on behalf of Peter Roskam on March 11, 1998. CWF's actual expenditures in connection with this radio advertising eventually totaled only \$18,610, the amount that Brabendar Cox paid the two radio stations. CWF contends that Brabendar Cox was able to buy only \$18,610 worth of air time in connection with the advertisements on behalf of Mr. Roskam.

19. CWF reported a disbursement of \$25,002.22 to Brabendar Cox for "TV Spots" on behalf of "Tom Bordonaro" on March 11, 1998 on Schedule E of its April Monthly Report. This disbursement was in fact made in connection with independent expenditures for radio advertisements on behalf of Peter Roskam.

20. CWF made an expenditure of \$18,500 to Brabendar Cox for "political mail" advertising in support of Perry Atkinson on May 6, 1998, and reported this expenditure to the Commission within 24 hours. CWF contends that actual disbursements in connection with this advertising eventually totaled \$19,009.47.

21. CWF reported a \$9,500 disbursement to Brabendar Cox for "political mail" in support of Perry Atkinson on Schedule E of its June 1998 Monthly Report. CWF contends that it reported a \$9,509.47 disbursement on Schedule B of a monthly report, and that this amount should have been reported as a disbursement to Brabendar Cox in connection with the "political mail" on behalf of Mr. Atkinson. However, CWF has not identified where any disbursement made in connection with the advertising on behalf of Mr. Atkinson was reported other than the reports mentioned above.

22. CWF contends that its March 16, 1998 24-Hour Report reflected good faith estimates of independent expenditures and that all of its monthly reports reported actual expenditures as they became known.

V. The following violations of the Act occurred:

1. CWF violated 2 U.S.C. § 434(c)(2) by failing to report making independent expenditures for direct mail advertising on behalf of Peter Roskam, and an independent expenditure for radio advertising on behalf of Peter Roskam, within 24 hours of such expenditures being made, and by reporting disbursements to different vendors on different dates as if they were a single disbursement to a single vendor on one date, in connection with direct mail advertising on behalf of Mr. Roskam, on its March 16, 1998 24-Hour Report. CWF will amend its March 16, 1998 24-Hour Report accordingly.

2. CWF mailed two advertisements in support of Mr. Roskam on March 2, 1998 and on or about March 9, 1998 which contained the words "Paid for by the Campaign for Working Families," and to that extent were in compliance with 2 U.S.C. § 441d(a)(3). However, the mailers' only other disclaimer message was the words "Not affiliated with any candidate or candidate's committee," and to that extent the mailers did not contain adequate disclaimers in violation of 2 U.S.C. § 441d(a)(3).

3. CWF violated 2 U.S.C. § 434(b) by: reporting \$25,002.55 disbursed for "TV Spots" on behalf of "Tom Bordonaro" on its April Monthly Report, which should have been reported as a disbursement for radio advertisements on behalf of Peter Roskam; failing to report expenditures to Association Mailing Services in connection with direct mail on behalf of Mr. Roskam on any monthly report; and failing to report a \$9,509.47 disbursement to Brabendar Cox in connection with an independent expenditure on behalf of Perry Atkinson on any monthly report. CWF will amend its monthly reports accordingly.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of twelve thousand dollars (\$12,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.


IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

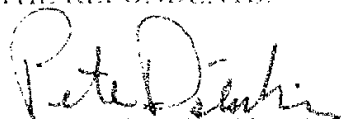
Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

8/4/99
Date

FOR THE REpondENTS:


(Name) Peter Dickinson
(Position) Treasurer

7/12/99
Date